



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

1991

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Honorable Bob McEwen
House of Representatives
Washington D.C. 20515

Dear Mr. McEwen:

Thank you for your letter of April 23, 1991, on behalf of your constituent, Mr. Bill Clausing, of Lucasville, Ohio. Mr. Clausing is apparently faced with the cost of removing and disposing of underground storage tanks from his property, which was formerly used as a gas station. The tanks have not been in use since 1976. You specifically asked whether any Federal assistance is available to assist Mr. Clausing in removing his tanks.

I am not aware of any Federal funds available through EPA to assist Mr. Clausing with the removal and disposal of his tanks. Such costs are typically borne by the tank owner or property owner, although some States have enacted assistance programs that can help their tank owners cover some of these expenses.

I cannot be certain from Mr. Clausing's letter whether his property is contaminated as a result of leaks from these tanks. In the event that it is contaminated, the State may be able to access the Environmental Protection Agency's (EPA) Leaking Underground Storage Tank (LUST) Trust Fund to assist in cleaning up the contamination. Each year, EPA awards money to States for their use in enforcement, oversight, and cleanup of releases from underground storage tanks. A State may, but is not required to, use the Trust Fund if the State determines that expenditures from the Fund are necessary to assure an effective corrective action. However, States are responsible for pursuing recovery of Trust Fund expenditures from liable tank owners. For more information about Ohio's administration of the LUST Trust Fund program, you should contact:

Ohio Department of Commerce
8895 East Main Street
Reynoldsburg, Ohio 43068
(614) 752-7938

The question of liability for tank removal at Mr. Clausing's property can be quite complex. The Federal statute -- and thus EPA's regulations -- defines the owner of a tank that was in use before November 1984 but never used after that date as any person who owned the tank immediately before the discontinuation of its use. Depending on the circumstances, it may be that Mr. Clausing would not be considered the tank owner under the Federal law.

States, however, are not constrained by the Federal definition of tank owner. They have the discretion to be more stringent than EPA in their State regulatory and enforcement efforts. Some States, for example, hold landowners as well as current and previous tank owners responsible for proper closure and removal of old tanks, as well as any contamination discovered. For more information on Ohio's position on these issues, You should contact the Ohio Department of Commerce.

I hope the information in this letter will be helpful to you in responding to your constituent, Please do not hesitate to contact me if I can be of any further assistance.

Sincerely yours,

David W. Ziegele, Acting Director
Office of Underground Storage Tanks